

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY L MENZIES JR,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

Case No. C20-5161-RJB-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, having reviewed the report and recommendation, “Motion for Vicarious Exhaustion of State Remedies,” the petition for writ of federal *habeas corpus* relief and the remaining record, hereby finds and ORDERS:

- (1) The objections made by Petitioner filing a Motion for Vicarious Exhaustion of State Remedies are meritless. Petitioner cites no authority for the proposition that the exhaustion of state remedies by another must apply “vicariously to Petitioner.” The Motion for Vicarious Exhaustion of State Remedies (Dkt. 7) is DENIED;
- (2) the Magistrate Judge’s report and recommendation (Dkt. 6) is approved and adopted;
- (3) petitioner’s federal habeas corpus petition (Dkt. 3) is DISMISSED without prejudice; and
- (4) a certificate of appealability is DENIED; and

1 (5) the Clerk is directed to send copies of this Order to petitioner, to
2 Magistrate Judge Theresa L. Fricke and to any other party that has
3 appeared in this action.

4 Dated this 28th day of May, 2020.

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7 ROBERT J. BRYAN
8 United States District Judge
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